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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,695	01/18/2001	Frank M. Keese	1108334- 0431	6465

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WHITE & CASE LLP  
PATENT DEPARTMENT  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036

EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/21/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/265695

Applicant(s)

Kecse

Examiner

John Guarriello

Group Art Unit

1791

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- Of the above claim(s) 10-19 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-9, 20, 21 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) #3
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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**DETAILED ACTION**

***Election/Restriction***

15. Restriction to one of the following inventions is required under 35

U.S.C. 121:

I. Claims 1-9, 20, 21, drawn to fiber reinforced flexible composite membrane, classified in class 442, subclass 65.

II. Claims 10-19, drawn to method of making composite membrane, classified in class 427, subclass 407.1.

16. The inventions are distinct, each from the other because:

17. Inventions I and II are related as process of making and product made.

The inventions are distinct if either or both of the following can be shown: (1)

that the process as claimed can be used to make other and materially different

product or (2) that the product as claimed can be made by another and

materially different process (MPEP § 806.05(f)). In the instant case the

product as claimed can be made by another and materially different process by

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coating and curing the perfluoropolmer woven composite in one step not in two steps.

18. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

19. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

20. During a telephone conversation with John M. Genova on 10/29/2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-9, 20, 21. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-19, Group II are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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***Claim Rejections - 35 USC § 102***

21. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Effenberger et al. 5,230,937.

Effenberger describes a reinforced composite which corresponds to a membrane structure since there is no defined porosity(column 4, lines 7-10). with a substrate coated with a fluoropolymer, (see abstract), and overcoated with an elastomer which can be a fluoroelastomer or blend thereof, (see abstract). Effenberger describes the reinforcement material may be glass or fiberglass among other materials possible, (column 4, lines 59-63). Effenberger describes the fluoropolymer can be PTFE among others, (column 6, lines 48-62; column 8, lines 11-16). Regarding the "balanced state", it is

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the Examiner's position that Effenberger applies the fluoropolymer evenly so as to achieve a balanced state, (column 8, lines 11-54). Effenberger describes the essential limitations of the claimed invention. Claims lack novelty.

22. Claims 1-6, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Knox et al. 5,217,797.

Knox describes a composite diaphragm which corresponds to a composite membrane since there is no defined porosity, (see abstract). Knox describes the composite to be flexible with a PTFE layer of fibers which can be reinforced by glass (column 3, lines 48-49). Knox describes an elastomeric layer can be attached to the fluoropolymer layer of PTFE, (column 2, lines 62-64). Knox describes the elastomer layer can be one with silicone moieties, (column 4, lines 61-68). Knox describes the flexibility of the composite material, (column 4, lines 40-60). Regarding the "balanced state", it is the Examiner's position that Knox applies the fluoropolymer on each side of

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layer "evenly" so as to achieve a balanced state, (column 3, lines 19-39).

Knox describes the essential limitations of the claimed invention. Claims lack novelty.

***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 1, 7-9, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Effenberger et al. 5,230,937 in view of Knox et al. 5,217,797.

Effenberger describes the flexible composite material as above in paragraph # 21. Effenberger differs because it is silent about using silicone rubber.

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Knox describes the flexible composite material as above in paragraph # 22, but further describes silicone moieties (corresponding to silicone rubber),(column 5, ines 42-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the silicone elastomers of Knox in the flexible material of Effenberger for the silicone moieties motivated with the expectation that properties of chemical resistance and flexibility would improve as noted in Knox, (column 1, lines 60-63). Regarding the use as a conveyor belt this would be an obvious modification since the properties of the fluoropolymer composites are similar to chemical liners, escape hoods as described by Effenberger, (column 3, lines 30-34).

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

November 13, 2002



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700